

OCT 26 2020

UNITED STATES DISTRICT COURT

for the

Northern District of California

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

United States of America

v.

Rufino Costales Jr.

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Case No. **CR-20 71532 MAG**

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 7, 2020 in the county of Monterey in the Northern District of California, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
Title 26, United States Code, Section 586I(d)	Possession of an Unregistered Firearm

This criminal complaint is based on these facts:

See Attached Affidavit

Continued on the attached sheet.

Approved as to form Patrick Delahunty  
AUSA /S/

/s/  
Complainant's signature  
SA John Weirich  
Printed name and title

Sworn to before me and signed in my presence.

Date: 10/23/2020

Nathanael Cousins  
Judge's signature

City and state: San Jose, California

Hon. Nathanael Cousins, US Magistrate Judge  
Printed name and title

## **AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, John Weirich, being sworn, depose and state the following:

### **INTRODUCTION AND AGENT BACKGROUND**

1. I am a Special Agent (SA) in the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) and have been so employed since May 2018. I am a graduate of the Criminal Investigator Training Program and ATF Special Agent Basic Training at the Federal Law Enforcement Training Center (FLETC) in Glynco, GA. I am currently assigned to the San Francisco Field Division, where my responsibilities include the investigation of criminal violations relating to firearms, explosives, arson, violent crime, criminal street gangs, and narcotics offenses. As an ATF Special Agent, I have also assisted the San Jose Resident Office (SJRO) of the Drug Enforcement Administration (DEA) in various narcotics investigations, including search warrants, arrest response team member, and surveillance. As a federal agent, I am authorized to investigate violations of the laws of the United States and am a law-enforcement officer with authority to execute warrants issued under the authority of the United States. During my law enforcement career, I have received formal and informal training from experienced law enforcement officials on drug trafficking operations. I have become familiar with the operation of street level deals, jargon/code words used by drug traffickers, methods of transportation, manufacturing, packaging, and possession of controlled substances. I have participated in several firearms and narcotics investigations of individuals for the illegal purchasing, trafficking, and/or possessing firearms and narcotics.

2. This affidavit is in support of a complaint charging Rufino Hidalgo Costales Jr., (hereafter "Costales") with violations of 26 U.S.C. § 5861 (d) - Possession of an Unregistered

Firearm Silencer and 26 U.S.C. § 5861 (i) – Possession of a Firearm Silencer Without a Serial Number. The information set forth in this affidavit is not intended to detail each and every fact and circumstance of the investigation or all information known to me and other law enforcement investigators. Rather, this affidavit serves to establish probable cause for arrest.

**7/7/20 POSSESSION OF AN UNREGISTERED FIREARM SILENCER WITHOUT A SERIAL NUMBER**

3. In or around May 2020, Costales claimed to own firearms and that he was manufacturing silencers.

4. On July 7, 2020, Monterey Police Department received a report Costales was maintaining bomb making materials inside his rented storage unit. The materials consisted of gun powder, metal nails, and pipes. Costales was described as being angry with the U.S. Government and police. Costales was also reported to have previously made over 10 statements about his interest in manufacturing an explosive device and using it to kill people, including pointing at a law enforcement vehicle and stating “I should blow that motherfucker up.” Further statements were made about selling a pipe bomb to local gangs and that he was interested in placing a bomb outside the Seaside and other California Police Departments.

5. Monterey Police Department then secured the storage unit location where the bomb making material was being stored and waited for a search warrant to be authorized and signed.

6. While Police Officers were outside securing the storage unit, Costales arrived driving a vehicle and was immediately contacted. While speaking with Costales, he showed

signs and symptoms of being under the influence of a controlled substance. Costales was immediately detained. After a field evaluation test was conducted he was then placed under arrest for being under the influence of a controlled substance.

7. During the search of his person and vehicle the following were seized: a methamphetamine pipe containing a useable amount of suspected methamphetamine and approximately 8.9 grams total gross weight of presumptive positive methamphetamine inside a glass jar.

8. After the state search warrant for the storage unit and Costales' vehicle was signed, Monterey Police Department Officers searched Costales' rented storage unit. The search resulted in the seizure of approximately two pounds of gunpowder, a silencer, and a Pietro Beretta Model 70, caliber 7.65, semiautomatic pistol with an extended barrel, which was externally threaded at the muzzle end. The threading of the pistol barrel fit the silencer found. The silencer did not have a serial number.

9. Additional items were seized from the storage unit: one hollowed out grenade; .22 caliber and 7.65 caliber ammunition; and a black backpack filled with miscellaneous bolts, nails, screws and nuts; methamphetamine pipes; methamphetamine vape pipes; PVC pipes with cap and a hole drilled into the side; nunchucks, a gun case, a gun card, a California identification card, and a medical marijuana card.

10. The storage unit was accessible by using a gate code, set by the customer, for passage through a perimeter gate. Then the same code is utilized to enter through the building entrance where the unit is located. Costales' storage unit was located on the third floor and the

unit was secured by a combination disc lock. Costales had purchased two locks previously from the Front Office at Extra Space Storage. Per Rental Agreement signed June 27, 2020, no other persons were listed as "Others Authorized for Access" and listing an Alternate Contact was refused by Costales in the Rental Agreement with Extra Space Storage; such an agreement, if Costales had consented, would allow someone other than the Customer to be provided with the gate code, unit number, account information, and assist with lock cutting.

### **COSTALES DID NOT REGISTER THE SILENCER**

11. A check of the National Firearms Registration and Transfer Record System revealed Costales did not have a silencer registered to him. According to the ATF Firearms Technology Criminal Branch Report of Technical Examination, the silencer did not bear any manufacturer marks of identification or serial number as required by 26 U.S.C. § 5842.

### **CONCLUSION**

12. Based on the above information, there is probable cause to conclude Rufino Costales Jr. (a) knowingly possessed a firearm silencer, as defined in Title 26, United States Code, Section 5845(a), and Title 18, United States Code, Section 921 (a), which had not been registered to him in the National Firearms Registration and Transfer Record, on July 7, 2020, all in violation of Title 26, United States Code, Section 586l(d).

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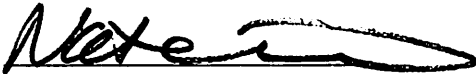
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13. I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and belief.

Special Agent John Weirich  
United States Department of Justice  
Bureau of Alcohol, Tobacco,  
Firearms, & Explosives

Sworn and subscribed to before me this 23rd day of October, 2020

A handwritten signature in black ink, appearing to read "Nathanael Cousins", written over a horizontal line.

HON. NATHANAEL COUSINS  
United States Magistrate Judge  
Northern District of California

PENALTIES FOR THE COUNT ALLEGED IN COMPLAINT IN U.S. v. COSTALES

Count One—Possession of an Unregistered Firearm Silencer  
Title 26 United States Code, Section 5861(d)

Maximum Prison Term:	10 years
Maximum Fine:	\$250,000
Maximum Supervised Release:	3 years
Special Assessment:	\$100